

Public Notice for HCBS Final Rules – Heightened Scrutiny

Feb. 16, 2017

The Cabinet for Health and Family Services Department for Medicaid Services, in accordance with 42 CFR 441.301, hereby provides a 30-day public notice and comment period for its first submission of Home- and Community-Based Services (HCBS) waiver settings requiring heightened scrutiny. The Centers for Medicare and Medicaid Services (CMS) adopted new federal regulations which address home and community-based setting requirements for Medicaid HCBS waivers, known as the HCBS Final Rules. As part of the HCBS Final Rules, CMS defined settings presumed not to be home- and community-based and will need to undergo heightened scrutiny. These settings include:

- 1) settings in a publicly or privately operated facility that provides inpatient institutional treatment,
- 2) settings in a building on the grounds of or adjacent to a public institution, and
- 3) settings with the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.

For settings presumed not to be home- and community-based, states must present evidence of their home- and community-based characteristics to CMS to determine if the setting has the qualities of a home- and community-based setting and does not have the qualities of an institution, and therefore, can continue providing waiver services to individuals receiving Medicaid HCBS.

Kentucky intends to submit 23 settings in its first heightened scrutiny submission to CMS, and public comment on each of these settings is an important part of the home- and community-based evidence package. Below are summaries for each of the settings that describe their home- and community-based characteristics, the reason the setting requires heightened scrutiny and the provider that operates the setting.

To submit written comments regarding this public notice, [email](#) them or mailing them by March 18, 2017 to the address below. Please identify which setting your comment relates to in your email and/or letter.

Department for Medicaid Services HCBS Final Rules Heightened Scrutiny
Commissioners Office
275 E. Main Street, 6W-A
Frankfort, Kentucky 40621